

IN THE UNITED STATES COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : Criminal No. 15-0021-1
v.
WILLIAM J. O'BRIEN III : January 28, 2016

MOTION TO DISMISS DUE TO FIFTH AMENDMENT
RIGHT TO DUE PROCESS

Addendum A: Court Order, 12/17, 2015
Addendum B: email to Prison Legal 12/25/2015
Addendum C: M. Davidson, Attorney for Prison letter 12/15/15
Addendum D: email response from Legal in Prison 1/20/16

The Defendant, Dr. William O'Brien, acting pro se, Motions for Dismissal of this case with prejudice due to Fifth Amendment Right to Due Process.

The Court ordered all motions due by January 4, 2016. Yet, the government withheld my discovery until December 21, 2015 and then limited my time and availability with the Discovery. This is not only unacceptable but illegal and criminal. The Bureau of Prisons (BOP) is a government entity, as is the Justice Department. My Sixth Amendment Right to represent myself cannot be properly given to me when I cannot look at, or evaluate my Discovery. I include the Court order, Addendum A, which shows the untruths and lies that the government is perpetrating to make it nearly impossible to preserve my Fifth and Sixth Amendment Rights.

Despite the difficulties I was presented, my Motions were submitted on time. The government's responses were untimely and under separate cover, I've requested that their responses be time-barred.

RELIEF REQUESTED:

1. Dismissal of this case
2. A formal Investigation into the lies
3. Lifting of the Protective Order and Granting Me access to a 24/7
4. Sanctions against Legal Counsel who lied to the Court (Formal Reprimand)

Respectfully Submitted,


William O'Brien

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

:

v.

:

CRIMINAL NO. 15-0021-1

:

WILLIAM J. O'BRIEN III

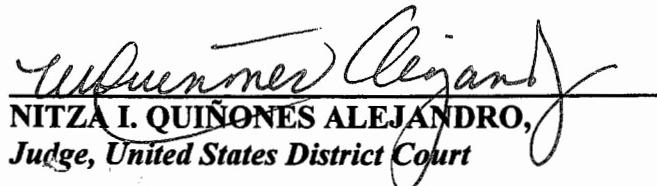
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O R D E R

AND NOW, this 17th day of December, 2015, upon consideration of Defendant O'Brien's *motion to compel discovery again 12/13/15*, [DOC 260], and the letter response from the U.S. Department of Justice, Federal Bureau of Prisons, confirming that discovery was delivered and has been provided to Defendant, it is hereby ORDERED that Defendant O'Brien's motion to compel is DISMISSED, as MOOT.

BY THE COURT:


NITZA I. QUIÑONES ALEJANDRO,
Judge, United States District Court

A

TRULINCS 71915066 - O'BRIEN, WILLIAM J - Unit: PHL-E-S

FROM: 71915066
TO: Legal
SUBJECT: ***Request to Staff*** O'BRIEN, WILLIAM, Reg# 71915066, PHL-E-S
DATE: 12/25/2015 07:41:48 PM

To: DISCOVERY
Inmate Work Assignment: DISCOVERY

Please note the date.
My discovery was held here at the prison from Nov 20 - Dec 21, 2015. I am representing myself, or pro se.
I filed multiple motions to receive my discovery. They are part of the record. On Dec 21, I finally was given my hard drive
(discovery). It is taken from me every afternoon at 3:30.
All motions (final) are due Jan 4, 2016. I need to have access to my discovery.

Today, I was told by the unit manager that I cannot have access to my discovery until Monday, December 28, 2015. She has been delivering it to me each morning, which I appreciate and thank her. Today, Christmas, she took my discovery at 1 PM.

This is unacceptable. My right to DUE PROCESS is being trampled. A BP-8 and 9 have already been filed. I await a response.
I ask that you forward this to the warden, for his consideration of my request for use of a laptop. My trial is scheduled for May 23, 2016. I will need access to my discovery every day, so as to prepare.

Thank You for your consideration,
sincerely,
Dr. William J. O'Brien III

B

U.S. Department of Justice
Federal Bureau of Prisons

Federal Detention Center

700 Arch Street
Philadelphia, Pennsylvania 19106

December 15, 2015

TO: William O'Brien, 71915-066

FROM: M. Davidson, Attorney

SUBJECT: US v. O'Brien, et al. Electronic Discovery

The U.S. Attorney's Office has delivered an external hard drive with a connection cord, a separate power cord and two cds for your review. The hard drive is labeled: Property of the U.S. Attorney's Office- EDPA, U.S. v. William J. O'Brien, 15-CR-00021, Discovery 11/17/2015. I have added your Register No. and current housing unit to the label. The two cds are also labeled US Attorney's Office- Eastern District of Pennsylvania and contain your case caption and Register No.

This external hard drive, power cord and cds are under a Protective Order, as ordered by the Court, and may not be possessed by you in your cell or used by you for any purpose other than reviewing your electronic discovery. You are not permitted to share or show the material to any other inmate. You are not permitted to use the power cord for any other purpose other than supplying power to the hard drive.

If you wish to review the discovery, make a request to Unit Team either in person or via email. If you have questions or concerns discuss them with Unit Team first and then contact me via email if necessary.

You are not permitted to keep the hard drive or cds in your possession overnight. Return the hard drive and cds to staff daily.

Cc: Unit Two Unit Team

Discovery 1st screen
12/21/15
see sign on sheet
for drawing!
1

TRULINCS 71915066 - O'BRIEN, WILLIAM J - Unit: PHL-E-S

FROM: Legal
TO: 71915066
SUBJECT: RE:***Inmate to Staff Message***
DATE: 01/20/2016 03:57:01 PM

[Handwritten mark]

You will have to have stand-by counsel, an investigator or the AUSA provide you with such documents. The discovery review computers are for reviewing discovery only and staff will not access an inmate's discovery to print materials.

Ms. Davidson

>>> ~!"O'BRIEN, ~!WILLIAM J" <71915066@inmatemessage.com> 1/14/2016 1:17 PM >>>

To: Discovery

Inmate Work Assignment: Print

Hi,

At mainline yesterday, I was told to email this request.

My discovery is on a hard drive. I will need to print hard copies of some of the discovery, at least 100 pages - for trial. then will need 4 copies (5 total) of each.

Please advise me of how-to do this. if it can not be done, i will need to know asap to notify the Court.

Sincerely,
Dr. William O'Brien

[Handwritten signature]

CERTIFICATE OF SERVICE

I hereby certify that these pleadings:

MOTION TO DISMISS BOTH GOVERNMENT'S RESPONSE TO DEFENDANTS:

- MOTION FOR HEARING TO CHALLENGE SEARCH WARRANT
- FOURTH MOTION TO COMPEL DISCOVERY

and

MOTION TO DISMISS DUE TO FIFTH AMENDMENT RIGHT TO DUE PROCESS

were mailed via First Class Mail, and thus served on January 28, 2016 from 5 South in the Federal Detention Center Philadelphia. A hand written record of this mailing is made by the Corrections Officer and kept on this block. These pleadings were sent to:

Clerk of Courts
601 Market Street
U.S. District Court
Phila., PA 19106

Beth Leahy AUSA
611 Chestnut Street
Suite 1250
Phila., PA 19106

Signed:


William J. O'Brien III

January 28, 2016